

HOUSE BILL 303

M2
HB 862/09 – ENV

0lr1211

By: **Delegates Smigiel, Aumann, Carter, Costa, Eckardt, Elmore, Frank, George, Haddaway, Kelly, McDonough, Miller, Shewell, Sossi, and Walkup**

Introduced and read first time: January 27, 2010
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Oyster Harvest – Closure of State Waters**

3 FOR the purpose of requiring the Department of Natural Resources to keep certain
4 waters of the State open for oyster harvesting unless the Department makes
5 certain determinations or except as required by law; requiring the Department
6 to manage certain waters of the State to support, promote, and enhance oyster
7 harvesting opportunities to a certain extent; requiring the Department to
8 manage certain waters of the State to prevent any net loss of waters available
9 for oyster harvesting or of available oyster harvest authorizations; requiring the
10 Department to submit to the General Assembly a certain annual report; and
11 generally relating to closures of certain waters of the State to oyster harvesting.

12 BY repealing and reenacting, without amendments,
13 Article – Natural Resources
14 Section 4–215(b)(6) and (c)(1)
15 Annotated Code of Maryland
16 (2005 Replacement Volume and 2009 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Natural Resources
19 Section 4–215(h)
20 Annotated Code of Maryland
21 (2005 Replacement Volume and 2009 Supplement)

22 BY adding to
23 Article – Natural Resources
24 Section 4–215.5
25 Annotated Code of Maryland
26 (2005 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Natural Resources**

4 4–215.

5 (b) The Department shall prepare fishery management plans for the
6 following species:

7 (6) Oysters;

8 (c) (1) Conservation and management measures adopted under a fishery
9 management plan, to the extent possible:

10 (i) Shall prevent overfishing while attempting to achieve the
11 best and most efficient utilization of the State’s fishery resources;

12 (ii) Shall be based on the best information available;

13 (iii) May not discriminate unfairly among groups of fishermen or
14 have economic allocation as its sole purpose;

15 (iv) Shall take into account and allow for variations among, and
16 contingencies in, fisheries, fishery resources, and catches; and

17 (v) Shall avoid duplication of regulatory efforts and unnecessary
18 costs to the State and to any other person.

19 (h) Notwithstanding any other provision of this title, except [§ 4–1002] §
20 **4–215.5 OF THIS SUBTITLE AND § 4–1002** of this title, once a fishery management
21 plan has been adopted by regulation, the State’s fishery resources shall be harvested
22 in accordance with the conservation and management measures in the fishery
23 management plan and any regulations implementing or amending that plan.

24 **4–215.5.**

25 **(A) THE DEPARTMENT SHALL:**

26 **(1) KEEP TIDAL WATERS OF THE STATE OPEN FOR OYSTER**
27 **HARVESTING UNLESS THE DEPARTMENT DETERMINES THAT A SPECIFIC AREA**
28 **OF WATER MUST BE CLOSED FOR REASONS OF PUBLIC SAFETY OR HOMELAND**
29 **SECURITY, OR AS OTHERWISE REQUIRED BY LAW;**

1 **(2) MANAGE TIDAL WATER RESOURCES TO SUPPORT, PROMOTE,**
2 **AND ENHANCE OYSTER HARVEST OPPORTUNITIES TO THE EXTENT AUTHORIZED**
3 **UNDER STATE LAW; AND**

4 **(3) MANAGE TIDAL WATER RESOURCES TO PREVENT, TO THE**
5 **GREATEST PRACTICAL EXTENT, ANY NET LOSS OF:**

6 **(I) TIDAL WATERS OF THE STATE AVAILABLE FOR OYSTER**
7 **HARVESTING; OR**

8 **(II) OYSTER HARVEST AUTHORIZATIONS AVAILABLE TO**
9 **TIDAL FISH LICENSEES IN THE STATE.**

10 **(B) BY OCTOBER 1, 2011, AND EACH YEAR THEREAFTER, THE**
11 **DEPARTMENT SHALL SUBMIT TO THE GENERAL ASSEMBLY, IN ACCORDANCE**
12 **WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, A REPORT DESCRIBING**
13 **THE TIDAL WATERS OF THE STATE THAT:**

14 **(1) THE DEPARTMENT CLOSED TO OYSTER HARVEST DURING THE**
15 **PREVIOUS YEAR AND THE REASONS FOR THE CLOSURES; AND**

16 **(2) TO COMPLY WITH SUBSECTION (A) OF THIS SECTION, THE**
17 **DEPARTMENT OPENED TO OYSTER HARVEST DURING THE PREVIOUS YEAR TO**
18 **COMPENSATE FOR THE TIDAL WATERS CLOSED AS DESCRIBED UNDER ITEM (1)**
19 **OF THIS SUBSECTION.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2010.